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FACSIMILE SUBMISSION UNDER 37 CFR 1.8

TO:	FROM:
Mail Stop Amendment	Jessica H. Kwak
Attn: Fangemonique A. Smith	
COMPANY:	DATE:
U.S. Patent and Trademark Office	OCTOBER 30, 2006
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
1-571-272-8160	1023-360US01
RE:	APPLICATION SERIAL NUMBER:
Response to Restriction Requirement dated September 28, 2006	10/825,964

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PATENTIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kenneth T. Heruth; Confirmation No. 8232
Keith A. Miesel
Serial No.: 10/825,964
Filed: April 15, 2004 Customer No.: 28863
Examiner: Fangemonique A. Smith
Group Art Unit: 3736
Docket No.: 1023-360US01
Title: DETECTING SLEEP

CERTIFICATE UNDER 37 CFR 1.8 I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on October 30, 2006.

By: Shirley A. Betlach
Name: Shirley A. Betlach

Mail Stop Amendments
Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

We are transmitting herewith the attached correspondence relating to this application:

- ☒ Transmittal sheet containing Certificate of Mailing
☒ Response to Restriction Requirement (3 pgs.)
☒ No additional fee is required

Please apply any charges not covered, or any credits, to Deposit Account No. 50-1778.

Date: October 30, 2006

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By: Jessica H. Kwak
Name: Jessica H. Kwak
Reg. No.: 58,975

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CENTRAL FAX CENTER**OCT 30 2006**
PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Kenneth T. Heruth; Keith A. Miesel	Confirmation No.	8232
Serial No.:	10/825,964		
Filed:	April 15, 2004	Customer No.:	28863
Examiner:	Fangemonique A. Smith		
Group Art Unit:	3736		
Docket No.:	1023-360US01		
Title:	DETECTING SLEEP		

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

This response is to the Office Action mailed September 28, 2006. Claims 1-33 and 35-68¹ have been restricted under 35 U.S.C. § 121 as follows:

- I. Claims 1-18, 46-52 and 63-68, drawn to a method for monitoring a plurality of physical parameters in a patient including a sleep metric,
- II. Claims 19-33, 35-45 and 53-62, drawn to a medical system for generating signals representative of physiological parameters of the body to determine the alertness of a patient, which includes a plurality of sensors and an implantable medical device.

Applicant hereby elects Group II with traverse.

¹ Applicant notes that claim 34 was cancelled by way of the Amendment filed July 14, 2006.